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6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF CALIFORNIA

8
9 PATRICK O. FRANKLIN, SR,

CV F 05 525 OWW LJO P

10 Plaintiff,

11 v.

ORDER VACATING FINDINGS AND
RECOMMENDATIONS ISSUED OCTOBER 5,
2005. (Doc. 13.)

12 CALIFORNIA CORRECTIONAL
13 INSTITUTION, et. al.,

14 Defendants.
15 _____/

16 Patrick O. Franklin ("Plaintiff"), an inmate currently incarcerated at California
17 Correctional Institution ("CCI") at Tehachapi, California, is a state prisoner proceeding pro se in
18 this civil rights action filed pursuant to 42 U.S.C. § 1983.

19 On October 4, 2005, the Court issued Findings and Recommendations that the Plaintiff's
20 Application to Proceed In Forma Pauperis be revoked. Upon further review of the record, the
21 Court finds that Plaintiff filed the instant action prior to being declared three strikes under the
22 Prison Litigation Reform Act. Accordingly, the Court HEREBY VACATES the Findings and
23 Recommendations previously issued and will screen the case in due course.

24 IT IS SO ORDERED.

25 **Dated: November 7, 2005**
b9ed48

/s/ Lawrence J. O'Neill
UNITED STATES MAGISTRATE JUDGE